IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Customer Number: 46320
	:	
John HIND, et al.	:	Confirmation Number: 5066
	:	
Application No.: 10/643,601	:	Group Art Unit: 2454
	:	
Filed: August 18, 2003	:	Examiner: J. Joo
	:	
For: BYPASSING CONTENT BLOCKING		

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

     This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the EXAMINER'S

ANSWER dated March 16, 2010.

     The Examiner's response to Appellants' arguments submitted in the Appeal Brief of

December 21, 2009, raises additional issues and underscores the factual and legal shortcomings

in the Examiner's rejection. In response, Appellants rely upon the arguments presented in the

Appeal Brief of December 21, 2009, and the arguments set forth below.

1 **REMARKS**

2

3   Appellants have compared the statement of the rejection found on pages 3-14 of the

4 Examiner's Answer with the statement of the rejection found on pages 3-13 of the Fifth Office

5 Action. Upon making this comparison, Appellants have been unable to discover any substantial

6 differences between the respective statements of the rejection. As such, Appellants proceed on

7 the basis that the Examiner's sole response to Appellants' Appeal Brief is found on pages 14-19

8 of the Examiner's Answer in the section entitled "Response to Argument."

9

10   In the paragraph spanning pages 14 and 15 and in the first full paragraph on page 15 of

11 the Examiner's Answer, the Examiner presented the following analysis:

12   In response, Examiner respectfully disagrees with Appellants' interpretation of the
13 claims. According to the claims' language, the content blocking logic is connected to the browser.
14 By connection, the content blocking logic may be separate from the browser. Examiner points to
15 Appellants' specification that also describes that the content blocking may reside external to the
16 browser. Appellants' specification recites "As the content blocking logic 180, whether it resides in
17 same computer as browser 130 or external 130" (Page 12, paragraph 0026), and figure 1 shows
18 "Content Blocking Logic 180" external to browser 130. It is unclear as to how the content
19 blocking logic or content blocking is "within" the browser as argued by the Appellants.
20   Furthermore, according to the claims' language, while the browser is within a client
21 device, the claims' do not specify that the content blocking logic is also within the client device.
22 The content blocking logic is just connected to the browser and the browser is within the client
23 device.
24
25 Appellants respectfully disagree with the Examiner's analysis.

26

27   At the outset, Appellants note that the Examiner's analysis fails to recognize the

28 differences between the teachings of the applied prior art and the claimed invention. The

29 claimed invention (either as a method, a hardware system, or a machine readable storage) resides

30 in a computer device (i.e., a computer hardware markup language document delivery system).

31 This computer device serves markup to a requesting browser, which is within a client device.

1   Importantly, the location at which the determining (i.e., identifying or detecting) the operation of

2   content blocking logic takes place (i.e., the computer hardware markup language document

3   delivery system) is different from where content blocking logic resides.

4

5   As is well-known to those skilled in the art, a browser within a client device can interact

6   with logic (i.e., a computer program) within the client device. For example, "plug-ins" are a type

7   of commonly-used computer program and provides additional functionality for the browser.

8   These plug-ins could be considered internal to the browser. A firewall is an example of logic

9   that is within a client device and is external to the browser. Content blocking logic, as is known

10 to those skilled in the art, is logic that blocks content to a browser. Within the client device

11 (either internal or external to the browser), the content blocking logic is connected to the browser

12 (so as to prevent certain content from being processed by the browser. Therefore, the operation

13 of the content blocking logic occurs within the client device.

14

15 _____

16   On pages 15 and 16 of the Examiner's Answer, the Examiner further discussed the

17 teachings of Serena. As noted above, the location at which the determining (i.e., identifying or

18 detecting) the operation of content blocking logic takes place (i.e., the computer hardware

19 markup language document delivery system) is different from where content blocking logic

20 resides. As argued in the Appeal Brief, Gnagy fails to teach the "determining the operation of

21 content blocking logic connected to a browser within a client device" and where this determining

22 is performed (i.e., within a markup language document delivery system).

23

1   As admitted by the Examiner (and already acknowledged by Appellants in the Appeal

2   Brief), the observation program 405 performs the operation of content blocking (see last full

3   paragraph on page 16 of the Examiner's Answer). The Examiner is also relying upon the

4   teachings of the observation program 405 (see citations in the fifth full paragraph on page 4 of

5   the Examiner's Answer) to teach the "determining the operation of content blocking logic ..."

6   However, as claimed, the operation of the content blocking logic is different from where the

7   determining the operation of content blocking logic is performed. Thus, the Examiner's citation

8   of the observation program 405 for both sets of limitations is inconsistent with the claimed

9   language.

10

11   _____

12   Referring to the paragraph spanning pages 16 and 17 of the Examiner's Answer, the

13   Examiner asserted the following:

14   In response, Examiner will further clarify the rejection. The claims do not specify how
15   operation of the content blocking logic is determined and while the steps of the claims are in a
16   system, the claims do not specify who in the system is determining the operation. As explained
17   above, Serena teaches of a content blocking logic, i.e. the observation program, connected to a
18   browser within a client device. The observation program may reside on the client device or
19   external to the client device. The observation program does not have to reside in the server as
20   argued by Appellants. Serena teaches that the observation program executes content preferences
21   and that the content preferences may include content to be blocked. The observation program may
22   perform content blocking based on the content preferences. (emphasis added)
23

24   Referring to the underlined portion of the above-reproduced passage, Appellants respectfully

25   submit that the Examiner's analysis is misplaced.

26

27   The steps of method claim 1 are performed in a markup language document delivery

28   system – also referred to in the art as a "server." Device claim 9 recites that the detection logic is

29   also within a markup language document delivery system (i.e., a server). Therefore, the

4

1 functionality of determining of the operation of the content block logic is found within the

2 markup language document delivery system.

3

4 Although Serena does not teach that the observation program has to reside in a server, in

5 order for Serena to teach certain of the limitations for which the Examiner is relying upon Serena

6 to teach, the observation program has to reside within the server of Serena. Specifically, as

7 noted above, the Examiner is also relying upon the teachings of the observation program 405

8 (see citations in the fifth full paragraph on page 4 of the Examiner's Answer) to teaching the

9 "determining the operation of content blocking logic ..." If the Examiner is asserting that the

10 observation program 405 is within the client device or in an intermediary device, then the

11 observation program 405 cannot be relied upon to teach the claimed "determining the operation

12 of content block logic."

13

14 Put differently, the limitations that the Examiner is relying upon Serena to teach is (A +

15 B) wherein A = determining the operation of content blocking logic being performed within a

16 markup language document delivery system and B = content blocking logic connected to a

17 browser within a client device. Serena teaches two alternatives (A + not B) and (B + not A),

18 which although separately encompassing the claimed limitations, fails to render obvious the

19 claimed invention, as a whole, which includes (A + B).

20

21 The Examiner attempts to cure these deficiencies with the following analysis in the first

22 full paragraph on page 17 of the Examiner's Answer:

23   As cited in the Office action and acknowledged by the Appellants, the content
24   preferences may be provided by a source other than a user (col. 6, lines 2-5). Serena further
25   describes that the source can be a server and that the preferences of a user on the server is accessed

by the observation program (col. 6, lines 13-16). Thus, the server determines that an observation program, i.e. content block logic, is operating by receiving access from the observation program and by the server providing what content to block to the observation program. As previously explained, the observation program can reside on the client device and is connected to a browser within a client device. Therefore, Serena teaches "content blocking logic connected to a browser within a client device".

The alleged fact that preferences by a user can be sent from a server to an observation program does not establish that the server determines the operation of content blocking logic, as claimed. The sending of preferences does not necessarily result in the operation of content blocking logic. Once the preferences are sent to the observation program from the server, Serena fails to teach that the server follows up and actually determines that the preferences are being implemented. Thus, the Examiner's new analysis fails to cure the above-identified deficiencies in the Examiner's reliance upon the observation program to teaching both determining the operation of content blocking logic being performed within a markup language document delivery system and content blocking logic connected to a browser within a client device

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On page 17 of the Examiner's Answer, the Examiner asserted the following:

> In response, it is noted that since the claims recite a "system", the steps of the claims do not have be performed in a single device. Gnagy teaches of a markup language document delivery system that is able to circumvent operation of content blocking logic (col. 7, lines 19-23, 42-48). Thus, a markup language document delivery system is not novel, and it would have been obvious to one of ordinary skill in the art to implement Serena's teachings into Gnagy's markup language document delivery system.

The Examiner's analysis fails to make a cogent point.

First, every computer device is a collection of another devices. Thus, whether it is called a computer device or a computer system is not relevant.

1   Second, the fact that Gnagy teaches that a markup language document delivery system is

2   able to circumvent the operation of content blocking logic fails to either explicitly or inherently

3   establish that Gnagy teaches a determination of the operation of content blocking logic was

4   performed or that this determination was performed in the markup language document delivery

5   system. By analogy, the fact that a lightning rod is positioned on a house does not mean that a

6   determination was performed, within the house, that lightning was in the area. A determination

7   could have been made entirely elsewhere that lightning may eventually be in the area, and as a

8   preventative measure, the light bolt was installed on the house. Similarly, Gnagy does not teach

9   making a determination of the operation of content blocking logic. Instead, Gnagy presumes that

10   content blocking logic (i.e., URL filters – see column 7, lines 59-64 of Gnagy) are being used

11   without actually determining that this content blocking logic is in operation.

12

13   Third, the fact that Gnagy teaches a markup language document delivery system (e.g., a

14   server) does not establish where the location of the alleged determination of the operation of

15   content blocking logic is performed.

For the reasons set forth in the Appeal Brief of December 21, 2009, and for those set forth herein, Appellants respectfully solicit the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: May 17, 2010   Respectfully submitted,

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